

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
WASHINGTON, DC

AIM AEROSPACE SUMNER, INC.,	)	
	)	
Respondent	)	
	)	Case Nos. 19-CA-203455
And	)	19-CA-203586
	)	
INTERNATIONAL ASSOCIATION	)	
OF MACHINISTS, DISTRICT 751,	)	
	)	
Charging Party	)	

**RESPONDENT’S REPLY BRIEF TO GENERAL COUNSEL’S  
AND CHARGING PARTY’S ANSWERING BRIEFS**

NOW COMES AIM Aerospace Sumner, Inc., Respondent or AIM herein, and files its reply brief to General Counsel’s and Charging Party’s Answering Briefs to Respondent’s cross-exceptions to Administrative Law Judge’s Decision.

**ARGUMENT**

The arguments advanced by the General Counsel and the Charging Party regarding the receiving clerk position awarded to Lori-Ann Downs-Haynes are largely addressed in Respondent’s Brief in Support of Exceptions. Some limited reply, however, is warranted.

Both the General Counsel and the Charging Party dispute Respondent’s contention that the *Wright Line* analysis does not apply to the facts of this case. But all of the Board decisions cited by the General Counsel involved circumstances in which there was actual *discrimination between pro-union and anti-union employees*. The only case not addressed in Respondent’s brief in support of cross-exceptions is *Remington Lodging & Hospitality, LLC, (Sheraton Anchorage)* 363 NLRB No. 6 (2015). In that case, the employer increased the work hours of less senior employees who signed a decertification petition while decreasing the work hours of more senior

employees who were pro-union. Thus, *Remington* was a classic case of discrimination, eminently suitable for the *Wright Line* analysis. Here, however, there was no discrimination among Respondent's employees. No pro-union employees requested or applied for the receiving clerk position. And between the two employees who did apply, both of whom signed the decertification petition, no one disputes that Downs-Haynes was the more qualified employee. *Wright Line* has no relevance to this factual scenario.

Further, it is simply inaccurate to say that Downs-Haynes received any *reward*. The receiving clerk position was vacant and Respondent was attempting to fill it. Two employees applied, and the more qualified of the two was selected for the position. No one was rewarded in any meaningful sense. A reward typically involves the granting of a gratuitous benefit or the granting of some benefit for which the employee was not qualified. Neither situation is present here.

## **CONCLUSION**

Respondent requests that the consolidated complaint be dismissed in its entirety.

Respectfully submitted this 24<sup>th</sup> day of July 2018.

/s/ Charles P. Roberts III

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## CERTIFICATE OF SERVICE

I certify that this day, I served the foregoing REPLY BRIEF on the following parties of record by electronic mail:

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Dated this 24<sup>th</sup> day of July 2018.

/s/ Charles P. Roberts III